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## UNITED STATES DEPARTMENT OF AGRICULTURE

## AGRICULTURAL ADJUSTMENT ADMINISTRATION

WASHINGTON, D. C.

## ORDER SERIES—ORDER NO. 12

(Issued by the Secretary of Agriculture Sept. 17, 1936)  
(Effective 12:01 a. m. C. S. T. Oct. 1, 1936)

**ORDER REGULATING THE HANDLING OF MILK IN THE  
DUBUQUE, IOWA, MARKETING AREA**

*Whereas*, by section 8b of Title I of the Agricultural Adjustment Act, approved May 12, 1933, as amended, hereinafter called the Act, the Secretary of Agriculture, hereinafter called the Secretary, is empowered, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in such handling of any agricultural commodity or product thereof as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

*Whereas*, by section 8c (1) of the Act the Secretary is empowered to issue orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of section 8c, such orders to regulate only such handling of such agricultural commodity or product thereof as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

*Whereas*, the Secretary, having reason to believe that the issuance of a marketing agreement and order with respect to the handling of milk in the Dubuque, Iowa, Marketing Area would tend to effectuate the declared policy to establish and maintain such marketing conditions in the handling of milk in the aforesaid area as would re-establish prices of milk to producers of milk in said area at a level that would give such milk a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of milk in the base period, August 1923–July 1929, gave, on the 15th day of June 1936, notice of a hearing, which was held on the 2nd day of July 1935 at Dubuque on a proposed marketing agreement and a proposed order regulating the handling of milk in the Dubuque, Iowa, Marketing Area, and on the 22nd day of July 1936 gave notice of the reopening of such hearing at Dubuque, Iowa, on the 28th day of July 1936, at which time and place all interested parties were afforded an opportunity to be heard on the proposed agreement and the proposed order; and





*Whereas*, the Secretary has found and proclaimed the period August 1923–July 1929 to be the base period to be used in connection with ascertaining the purchasing power of milk handled in the Dubuque, Iowa, Marketing Area; and

*Whereas*, after said hearing and after the tentative approval by the Secretary of a marketing agreement on the 17th day of August 1936, handlers of more than 50 per centum of the volume of milk covered by this order, which is marketed within the Dubuque, Iowa, Marketing Area, refused or failed to sign such marketing agreement; and

*Whereas*, the Secretary determined on the 14th day of September, 1936, said determination being approved by the President of the United States on the 15th day of September, 1936, that said refusal or failure tends to prevent the effectuation of the declared policy to establish and maintain such marketing conditions in the handling of milk in the aforesaid area as would reestablish prices of milk to producers of milk in said area at a level that would give such milk a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such milk in the base period, August 1923–July 1929, and that the issuance of this order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk in said area; and

*Whereas*, the issuance of this order and in a separate poll, the payment of uniform prices by each handler to the producers delivering milk to such handler is approved or favored by over 75 percent of the producers who, during the month of June 1936, said month being determined by the Secretary to be a representative period, have been engaged in the production of milk for sale in the Dubuque, Iowa, Marketing Area; and

*Whereas*, the Secretary finds, upon the evidence introduced at the said hearing:

1. That approximately 16 percent of the total volume of milk, the handling of which is covered by this order, is produced in the States of Illinois and Wisconsin and that the handling of all such milk is in the current of interstate commerce and that the handling of the remainder of the milk covered by this order directly burdens, obstructs, or affects interstate commerce in milk and its products;

2. That at the time of said hearing and for a protracted period prior thereto, a disparity existed between the prices of milk and the prices of commodities bought by farmers so that the purchasing power of milk for such commodities was below the purchasing power of milk for such commodities during the base period, and that the payment of the minimum prices in the manner set forth in this order will tend to correct said disparity;

3. That the classification of milk into three classes follows a custom already established in the market and is a valid economic procedure;

4. That the determination of uniform prices to be paid by each handler to producers who deliver milk to such handler is a fair and reasonable method of distributing to producers the proceeds of sales to handlers;

5. That the Dubuque, Iowa, Marketing Area, as defined in this order, is the natural marketing area within which handlers distribute the aforesaid milk;



6. That the Market Administrator is a proper agency to administer this order and that the powers granted to, and duties specified for such Market Administrator in this order are necessary for the administration of this order;

7. That a pro rata assessment on handlers at the rate of not to exceed 4 cents per hundredweight of milk received from producers will provide funds necessary for the proper administration of this order;

8. That the reports required of handlers by this order are reasonably necessary for the proper administration of this order;

9. That this order regulates the handling of milk in the same manner as, and is applicable only to handlers specified in the marketing agreement mentioned above, upon which a hearing has been held;

10. That the issuance of this order and all of the terms and conditions hereof will tend to effectuate the declared policy to establish and maintain such marketing conditions in the handling of milk in the aforesaid area as will reestablish prices of milk to producers of milk in said area at a level that will give such milk a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of milk in the base period, August 1923–July 1929;

Now, THEREFORE, the Secretary of Agriculture, pursuant to the authority vested in him by the Act, hereby orders that such handling of milk in the Dubuque, Iowa, Marketing Area as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce shall, from the effective date hereof, be in conformity to, and in compliance with, the following terms and conditions:

#### ARTICLE I—DEFINITIONS

SECTION 1. *Terms.*—The following terms shall have the following meanings:

1. “Dubuque Marketing Area”, hereinafter called the “Marketing Area”, means the territory within the corporate limits of the city of Dubuque; the territory within the township of Dubuque; sections 1, 2, 3, 11, and 12 of the township of Table Mound, and sections 5 and 6 of the township of Mosalem, all in the county of Dubuque in the State of Iowa.

2. “Person” means any individual, partnership, corporation, association, and any other business unit.

3. “Producer” means any person, irrespective of whether any such person is also a handler, who produces milk in conformity with the health requirements applicable for milk to be sold for consumption as milk in the Marketing Area.

4. “Handler” means any person, irrespective of whether such person is a producer or an association of producers, wherever located or operating, who engages in such handling of milk, which is sold as milk or cream in the Marketing Area, as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in milk and its products.

5. “Market Administrator” means the person designated pursuant to article II as the agency for the administration hereof.

6. “Delivery period” means the current marketing period beginning with the 1st day and ending with the 15th day, and beginning with the 16th day and ending with the last day, of each month.



## ARTICLE II—MARKET ADMINISTRATOR

SECTION 1. *Selection, Removal, and Bond.*—The Market Administrator shall be selected by the Secretary and shall be subject to removal by him at any time. The Market Administrator shall, within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

SEC. 2. *Compensation.*—The Market Administrator shall be entitled to such reasonable compensation as may be determined by the Secretary.

SEC. 3. *Powers.*—The Market Administrator shall have power:

1. To administer the terms and provisions hereof; and
2. To receive, investigate, and report to the Secretary complaints of violation of the terms and provisions hereof.

SEC. 4. *Duties.*—The Market Administrator, in addition to the duties hereinafter described, shall:

1. Keep such books and records as will clearly reflect the transactions provided for herein;

2. Submit his books and records to examination by the Secretary at any and all times;

3. Furnish such information and such verified reports as the Secretary may request;

4. Obtain a bond with reasonable security thereon covering each employee who handles funds entrusted to the Market Administrator;

5. Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof;

6. Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 15 days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to article V or (b) made payments pursuant to article VIII; and

7. Pay out of the funds provided by article IX (a) the cost of his bond and of the bonds of such of his employees as handle funds entrusted to the Market Administrator, (b) his own compensation, and (c) all other expenses which will necessarily be incurred by him for the maintenance and functioning of his office and the performance of his duties.

SEC. 5. *Responsibility.*—The Market Administrator, in his capacity as such, shall not be held responsible in any way whatsoever to any handler or any other person for errors in judgment, for mistakes, or for other acts either of commission or omission, except for his own willful misfeasance, malfeasance, or dishonesty.

## ARTICLE III—CLASSIFICATION OF MILK

SECTION 1. *Sales and Use Classification.*—All milk purchased or handled by handlers shall be classified by the Market Administrator as follows:

1. All milk sold or distributed as milk shall be Class I milk;
2. All milk used to produce cream for consumption as cream shall be Class II milk;



3. All milk specifically accounted for (a) as sold, distributed, or disposed of other than as milk, or cream for consumption as cream, (b) as manufacturing loss, and (c) as general plant shrinkage within reasonable limits shall be Class III milk.

SEC. 2. *Inter-handler Sales*.—Milk sold by a handler to another handler shall be presumed to be Class I milk. In the event that such selling handler, on or before the date fixed for filing reports pursuant to article V, notifies the Market Administrator that such milk, or part thereof, has been sold or used by the purchasing handler other than as Class I milk, such milk, or part thereof, shall be classified according to such notification; provided, that if such selling handler does not, on or before the 10th day after the end of the delivery period during which such sale was made, furnish proof satisfactory to the Market Administrator in support of the above notification, such milk, or part thereof, shall then be classified as Class I milk and so included in the value of milk computed for the selling handler pursuant to section 1 of article VII.

SEC. 3. *Sales to Non-handlers*.—Milk sold by a handler to a person who is not a handler and who distributes milk or manufactures milk products shall be presumed to be Class I milk. In the event that such selling handler, on or before the date fixed for filing reports pursuant to article V, notifies the Market Administrator that such milk, or part thereof, has been sold by such purchaser other than as milk, such milk, or part thereof, shall be classified according to such notification; provided, that if such selling handler does not, on or before the 15th day after the end of the delivery period during which such sale was made, furnish proof satisfactory to the Market Administrator in support of the above notification, such milk, or part thereof, shall then be classified as Class I milk and so included in the value of milk computed for the selling handler pursuant to section 1 of article VII.

#### ARTICLE IV—MINIMUM PRICES

SECTION 1. *Class I Price*.—Each handler shall pay producers, at the time and in the manner set forth in article VIII, for Class I milk, at such handler's plant, not less than \$1.90 per hundredweight.

SEC. 2. *Class II Price*.—Each handler shall pay producers, at the time and in the manner set forth in article VIII, for Class II milk, at such handler's plant, not less than \$1.80 per hundredweight.

SEC. 3. *Class III Price*.—Each handler shall pay producers, in the manner set forth in article VIII, for Class III milk not less than the price which shall be calculated by the Market Administrator as follows: multiply by 3.5 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture, for the delivery period during which such milk is purchased, and add 15 cents.

SEC. 4. *Sales Outside the Marketing Area*.—The price to be paid to producers by a handler for Class I milk sold outside the Marketing Area, in lieu of the price otherwise applicable pursuant to this article, shall be such price as the Market Administrator ascertains is being paid by processors, in the market where such milk is sold, for milk of equivalent use, subject to a reasonable adjustment on account of



transportation from the plant where such milk is received from producers to the plant where such milk is loaded on wholesale and retail routes.

#### ARTICLE V—REPORTS OF HANDLERS

SECTION 1. *Periodic Reports.*—On or before the 5th day after the end of each delivery period each handler shall, with respect to milk or cream which was, during such delivery period (a) received from producers, (b) received from handlers, and (c) produced by such handler, report to the Market Administrator, in the detail and form prescribed by him, as follows:

1. The receipts at each plant from producers who are not handlers;
2. The receipts at each plant from any other handler, including any handler who is also a producer;
3. The quantity, if any, produced by such handler; and
4. The respective quantities of milk which were sold, distributed, or used, including sales to other handlers, for the purpose of classification pursuant to article III.

SEC. 2. *Reports as to Producers.*—Each handler shall report to the Market Administrator:

1. Within 10 days after the Market Administrator's request, with respect to any producer for whom such information is not in the files of the Market Administrator, and with respect to a period or periods of time designated by the Market Administrator, (a) the name and address, (b) the total pounds of milk delivered, (c) the average butterfat test of milk delivered, and (d) the number of days upon which deliveries were made; and
2. As soon as possible after first receiving milk from any producer, (a) the name and address of such producer, (b) the date upon which such milk was first received, and (c) the plant at which such producer delivered milk.

SEC. 3. *Reports of Payments to Producers.*—Each handler shall submit to the Market Administrator on or before the 20th day after the end of each delivery period his producer payroll for such delivery period which shall show for each producer (a) the net amount of such producer's payment with the prices, deductions, and charges involved and (b) the total delivery of milk with the average butterfat test thereof.

SEC. 4. *Verification of Reports.*—In order that the Market Administrator may submit verified reports to the Secretary pursuant to paragraph 3 of section 4 of article II, each handler shall permit the Market Administrator or his agent, during the usual hours of business, to (a) verify the information contained in reports submitted in accordance with this article, and (b) weigh milk delivered by each producer and sample and test milk for butterfat.

#### ARTICLE VI—HANDLERS WHO ARE ALSO PRODUCERS

SECTION 1. *Milk Purchased from Producers.*—In the case of a handler who is also a producer, and has purchased milk from producers, the Market Administrator shall, in the computations set forth in article VII, first exclude the milk purchased by him in each class from other handlers and then apportion the milk purchased by him



from producers to each class according to the ratio which such handler's remaining total sales in each class bears to his remaining total sales in all classes.

## ARTICLE VII—DETERMINATION OF UNIFORM PRICES TO PRODUCERS

SECTION 1. *Computation of Value of Milk for Each Handler.*—For each delivery period the Market Administrator shall compute, subject to the provisions of article VI, the value of milk sold or used by each handler, which was not purchased from other handlers, by (a) multiplying the quantity of such milk in each class by the price applicable pursuant to article IV, and (b) adding together the resulting values of each class.

SEC. 2. *Computation and Announcement of Uniform Prices.*—The Market Administrator shall compute and announce for each handler the uniform price per hundredweight of milk delivered to such handler during each delivery period as follows:

1. Divide the total value computed pursuant to section 1 of this article by the total quantity of milk for which such value is computed;
2. On or before the 10th day after the end of each delivery period, notify each handler of the blended price per hundredweight computed for him pursuant to this section; and
3. On or after the 15th day after the end of each delivery period publicly announce the uniform price computed for each handler pursuant to this section.

## ARTICLE VIII—PAYMENT FOR MILK

SECTION 1. *Time and Method of Payment.*—On or before the 15th day after the end of each delivery period each handler shall make payment for the total value of milk received from producers during such delivery period, computed according to section 1 of article VII by paying each producer for all milk delivered by such producer at the blended price computed for such handler pursuant to section 2 of article VII, subject to the butterfat differential set forth in section 3 of this article.

SEC. 2. *Errors in Payments.*—Errors in making the payments prescribed in this article shall be corrected not later than the date for making payments next following the determination of such errors.

SEC. 3. *Butterfat Differential.*—In making payments to each producer pursuant to section 1 of this article, each handler shall add or subtract, as the case may be, for each one-tenth of one percent of butterfat content of milk delivered by such producer which is above or below 3.5 percent, an amount which is one-tenth of the average price per pound of 92-score butter at wholesale in the Chicago market as reported by the United States Department of Agriculture for the delivery period during which such milk is purchased; provided that such amount shall not be less than 3 cents nor more than 4 cents.

## ARTICLE IX—EXPENSE OF ADMINISTRATION

SECTION 1. *Payments by Handlers.*—As his pro rata share of the expense of the administration hereof, each handler shall, on or before the 10th day after the end of each delivery period, pay to the Market



Administrator a sum not exceeding 4 cents per hundredweight with respect to all milk received by him during such delivery period from producers or produced by him, the exact amount to be determined by the Market Administrator subject to review by the Secretary.

SEC. 2. *Suits by Market Administrator.*—The Market Administrator may maintain a suit in his own name against any handler for the collection of such handler's pro rata share of expense set forth in this article.

## ARTICLE X—EFFECTIVE TIME, SUSPENSION, AND TERMINATION

SECTION 1. *Effective Time.*—The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare, and shall continue in force until suspended or terminated, pursuant to section 2 of this article.

SEC. 2. *Suspension and Termination.*—Any or all provisions hereof or any amendment hereto shall be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary may give, and shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

SEC. 3. *Effect.*—Unless otherwise provided by the Secretary in the notice of amendment, suspension, or termination of any or all provisions hereof, the amendment, suspension, or termination shall not: (a) affect, waive, or terminate any right, duty, obligation, or liability which shall have arisen or may thereafter arise in connection with any provisions hereof; (b) release or waive any violation hereof occurring prior to the effective date of such amendment, suspension, or termination; or (c) affect, or impair, any rights or remedies of the Secretary, or of any other person, with respect to any such violation.

SEC. 4. *Continuing Power and Duty.*—If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the Market Administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination; provided, that any such acts required to be performed by the Market Administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

The Market Administrator, or such other person as the Secretary may designate, (a) shall continue in such capacity until discharged by the Secretary, (b) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the Market Administrator, or such person, to such person as the Secretary shall direct, and (c) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the Market Administrator or such person pursuant hereto.

SEC. 5. *Liquidation after Suspension or Termination.*—Upon the suspension or termination of this order the Market Administrator, or such person as the Secretary may designate, shall liquidate the business of the Market Administrator's office, and dispose of all



funds and property then in his possession or under his control, together with the claims for any funds which are unpaid and owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the Market Administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

#### ARTICLE XI—LIABILITY

SECTION 1. *Handlers*.—The liability of the handlers hereunder is several and not joint and no handler shall be liable for the default of any other handler.

NOW, THEREFORE, H. A. WALLACE, Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, as amended, for the purposes and within the limitations therein contained, and not otherwise, does hereby execute this order in duplicate under his hand and the official seal of the Department of Agriculture, in the city of Washington, District of Columbia, on this 17th day of September, 1936, and pursuant to the provisions hereof declares this order to be effective on and after 12:01 a. m. Central Standard Time October 1, 1936.



*H A Wallace*

*Secretary of Agriculture.*











